

**QUENTIN LINK, a minor, by Next** )  
**Friend and Legal Guardian, Iris Link,** )  
**and by IRIS LINK individually** ) **Case No. 3:12-472**  
) **Judge Trauger**  
**Plaintiffs,** )  
)   
**v.** )  
)   
**METROPOLITAN NASHVILLE** )  
**BOARD OF PUBLIC EDUCATION,** )  
**HARPETH VALLEY ELEMENTARY** )  
**SCHOOL, and KIMBER** )  
**HALLIBURTON, individually and in her** )  
**official capacity as principal of Harpeth** )  
**Valley Elementary School** )  
  
**Defendants.** )

of being sued separately and distinctly from the Metropolitan Government”). And the same would hold true of HVES, one of dozens of Metro Schools operating under the Board’s supervision.

The capacity of a party to be sued in this instance is governed by the laws of the State of Tennessee. Fed. R. Civ. P. 17(b); Haines, 32 F. Supp. 2d at 994. “Under Tennessee law, the rights, powers, and duties of a municipal corporation such as [the] Metropolitan Government are determined by the corporation's charter as well as the general law of the state.” Id. (citing Barnes v. City of Dayton, 392 S.W.2d 813, 817 (Tenn.1965)). These powers and duties should be “strictly construed.” Haines, 32 F. Supp. 2d at 994 (citations omitted). In the absence of a grant of authority to sue and be sued, plaintiff’s lawsuit cannot be maintained against the Board. Id.

Section 1.01 of the Metropolitan Charter provides that the Metropolitan Government shall have the capacity to sue and be sued. Metropolitan Charter, § 1.01 (copy attached to Motion as Exhibit A). Section 9.01 of the Charter establishes the system of public schools for the Metropolitan Government. Metropolitan Charter, § 9.01 (copy attached to Motion as Exhibit B). When read together, Charter Sections 9.01 and 9.03 specify that the public school system is administered and controlled by the Metropolitan Board of Public Education. Metropolitan Charter, § § 9.01, 9.03 (copy attached to Motion as Exhibit C). However, the powers and duties of the school system and the Board do not include the capacity to sue and be sued. Haines, 32 F. Supp. 2d at 994. And the Charter contains no language suggesting that individual schools within the Nashville public school system would be amenable to suit.

The Board was not granted the power to sue and be sued by the Metropolitan Charter; thus, it is not a proper party defendant in the instant case, and Plaintiffs’ claims against it should be dismissed. As for HVES, it is unaware of any statutory or common law authority that would

render it amenable to suit. HVES itself is not a legal entity separate and apart from the Board of Education and/or the Metropolitan Government. Thus, HVES should be dismissed as a Defendant as well.

Respectfully Submitted,

THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
SAUL SOLOMON (#11689)  
DIRECTOR OF LAW

/s/ Keli J. Oliver  
Keli J. Oliver (#21023)  
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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been forwarded via the court's electronic filing system to: Jonathan H. Wardle, Wardle Law, PLC, 8120 Sawyer Brown Road, Suite 101, Nashville, TN 37221, and J.K. Simms and Jennifer Milam, Cornelius & Collins, LLP, Nashville City Center, Suite 1500, 511 Union Street, Nashville, Tennessee, 37219, on this the 29<sup>th</sup> day of June, 2012.

/s/ Keli J. Oliver  
Keli J. Oliver